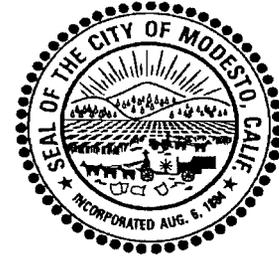


**CITY OF MODESTO, CALIFORNIA**

Community and Economic Development Department  
Building Safety Division  
P.O. Box 642  
1010 Tenth Street, Suite 3100  
Modesto, California 95353



Telephone: (209) 577-5232  
Facsimile: (209) 571-5135  
TDD: (209) 526-9211

# **NOTICE OF PASSAGE OF RESOLUTION**

**JUNE 18, 2014**

**TO: SAMUAL C. GARRETT JR.  
935 MAGNOLIA AVENUE  
MODESTO, CA 95350**

**OPES ADVISORS, INC.  
555 COLLEGE AVENUE  
PALO ALTO, CA 94306**

**MERS  
P.O. BOX 2026  
FLINT, MI 48501**

**VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**RE: THE FAILURE TO OBTAIN A BUILDING PERMIT AND OBTAIN  
FINAL APPROVAL FOR THE CONSTRUCTION OF AN UNFINISHED  
ATTIC SPACE CONVERSION INTO HABITABLE LIVING AREA AND  
THE CONVERSION OF THE GARAGE TO AN ENCLOSED  
WORKSHOP EVIDENCED BY CLOSED BUILDING  
PERMIT NO. 396009-0 LOCATED AT THE PROPERTY KNOWN AS  
935 MAGNOLIA AVENUE, MODESTO, CALIFORNIA; CITY OF  
MODESTO CODE ENFORCEMENT CASE NO. COD2013-50240**

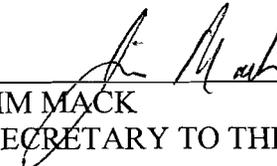
PLEASE TAKE NOTICE that on May 22, 2014, the Board of Building Appeals of the City of Modesto conducted a public appeal hearing regarding the real property situated in the City of Modesto commonly referred to as 935 Magnolia Avenue (hereinafter referred to collectively as the “premises”). Following the public appeal hearing, the Board adopted Resolution No. 2014-04, a true and correct copy of which is attached to this Notice.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2014-04, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED AND DIRECTED TO ABATE SUCH NUISANCE BY FOLLOWING THE CITY OF MODESTO PERMIT PROCESS AND OBTAIN A BUILDING PERMIT TO COMPLETE THE UNFINISHED ATTIC CONVERSION AND TO CONVERT THE GARAGE BACK INTO A GARAGE WITHIN THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE PREMISES.

IF THE NUISANCE IS NOT ABATED, AS INDICATED IN RESOLUTION NO. 2014-04, THE NUISANCE SHALL BE ABATED BY THE CITY OF MODESTO AND THE EXPENSE THEREOF MADE A LIEN ON THE LOT OR PARCEL LAND UPON WHICH SAID BUILDINGS ARE LOCATED.

PLEASE TAKE FURTHER NOTICE that the owners of the premises or any other interested person having any objections, or feeling aggrieved at any proceeding taken by the City of Modesto in ordering abatement of the nuisance, must bring an action in a court of competent jurisdiction within thirty (30) days after the date of posting on the premises the notice of passage of the resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution, otherwise all objections will be deemed to have been waived.

Dated: June 18, 2014

  
\_\_\_\_\_  
JIM MACK  
SECRETARY TO THE BOARD

JM:cp  
Attachment

cc: SAMUAL C. GARRETT JR.  
935 MAGNOLIA AVENUE  
MODESTO, CA 95350

OPES ADVISORS, INC.  
555 COLLEGE AVENUE  
PALO ALTO, CA 94306

MERS  
P.O. BOX 2026  
FLINT, MI 48501

City Attorney  
Jim Mack, Acting Chief Building Official  
Bert Lippert, Building Inspection Program Coordinator  
File

BOARD OF BUILDING APPEALS  
RESOLUTION NO. 2014-04

A RESOLUTION DECLARING THE BUILDING LOCATED AT 935 MAGNOLIA AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Samuel C. Garrett Jr. has title to and is the recorded owner of property located at 935 Magnolia Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises;” and

WHEREAS, the premises at 935 Magnolia Avenue consists of an unfinished attic space conversion into habitable living area and the conversion of the garage to an enclosed workshop evidenced by closed Building Permit No. 396009-0; and

WHEREAS, the Chief Building Official of the City of Modesto is authorized by the Building Maintenance Code of the City of Modesto to enforce all provisions of the Code including authority to inspect any building or structure and order that any such building or structure determined under the Building Maintenance Code to be Unsafe and Unfit for Human Occupancy be declared a public nuisance and order the recorded owner to abate the nuisance conditions by demolition of the unsafe structures and the removal of the junk, trash, debris and weeds on the property; and

WHEREAS, inspection of the premises was conducted by City of Modesto Building Safety Division personnel on April 14, 2014; and

WHEREAS, a Notice of Violation dated April 17, 2014, was issued by the Acting Chief Building Official to contact the Building Safety Division of the City of Modesto and obtain a building permit to complete the unfinished attic conversion and to convert the garage back into a garage within thirty (30) days from the close of escrow and to obtain final Building Safety approval within sixty (60) days from the close of escrow; and

WHEREAS, said Notice of Violation dated April 17, 2014, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on April 17, 2014, said Notice of Violation of April 17, 2014, was mailed by certified mail, postage prepaid, return receipt requested to record owners and the holder of the deed of trust of record, pursuant to Article 12 of the Building Maintenance Code of the City of Modesto; and

WHEREAS, the owner(s) of said premises have failed to complete work within the time specified in said Notice of Violation and, therefore, the owner(s) are now in violation of the Building Maintenance Code of the City of Modesto; and

WHEREAS, the property continues to deteriorate and constitutes a public nuisance; and

WHEREAS, pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 66, thirty (30) days after the posting of copies of this resolution, the City of Modesto shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the building unless the nuisance is abated by

the owner or the person interested within the thirty (30) day period or any extension thereof granted by the Board of Building Appeals as provided in Article 12 of the Building Maintenance Code. In the event that the nuisance is not abated within the time prescribed, the City of Modesto may thereupon raze and remove the premises or have the same done under its direction and supervision; and

WHEREAS, on May 12, 2014, a "Notice to Abate Nuisance" was mailed by certified mail, postage prepaid, return receipt requested, to record owner(s) and posted on the property, pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Sections 58 and 60; and

WHEREAS, said "Notice to Abate Nuisance" gave notice that a public hearing would be held by the Board of Building Appeals of the City of Modesto, on May 22, 2014, at 4:00 p.m., in the Second Floor Conference Room 2005 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 935 Magnolia Avenue; and

WHEREAS, a duly noticed public hearing of the Board was held at date, time, and place as mentioned above, for the purpose to hear and receive evidence to determine whether said premises constitutes a public nuisance and to consider other appropriate action to abate such nuisance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Appeals of the City of Modesto, that the following be ordered:

1. That the premises commonly referred to as 935 Magnolia Avenue, hereinafter referred to collectively as the "premises," be hereby declared a public nuisance.
2. That the owner(s) of said premises are hereby directed and ordered to abate the nuisance by following the City of Modesto permit process by obtaining a building permit to complete the unfinished attic conversion and to convert the garage back into a garage within thirty (30) days from the date of the posting of the notice of the passage of the resolution.
3. If the nuisance is not abated, said building(s) will be razed or removed and all junk, trash, debris and weeds removed by the City of Modesto and the expense thereof made a lien on the lot or parcel of land upon which said building is located.

BE IT FURTHER RESOLVED:

1. Thirty (30) days after the posting of copies of this resolution, the City of Modesto shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the buildings, unless the nuisance is abated by the owner or other person within the thirty (30) day period or any extension thereof granted by the Board of Building Appeals. In the event that the nuisance is not abated within the time prescribed, the City of Modesto may thereupon raze and remove the building so declared to constitute a nuisance or have the same done under its direction and supervision.

2. In the event that the City of Modesto razes and removes the buildings so declared to constitute a nuisance or have the same done under its direction and supervision, the City of Modesto shall keep an itemized account of the expense involved in the razing or removing of any such buildings and shall deduct therefrom the amount received from the sale of any building materials pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 68. The City of Modesto may proceed to recover its expenses in the razing or removing of any such buildings pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 68 and Section 70.

BE IT FURTHER RESOLVED that the City of Modesto shall cause to be posted on the premises a notice of the passage of this Resolution No. 2014-04, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within sixty (60) days after passage of this Resolution No. 2014-04, declaring a nuisance and directing abatement of the nuisance, the City of Modesto shall cause to be posted a copy of said resolution conspicuously on the buildings so declared to be a nuisance and mail another copy of the resolution by certified mail, postage prepaid, return receipt requested, to (1) the person(s) owning the land on which the buildings are located as such person's name and address appear on the last equalized assessment roll, and (2) to each mortgagee or beneficiary under any deed of trust, of record, at the last known address of such mortgagee or beneficiary. The officer or employee giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 58.

The foregoing matter was introduced at a special appeal meeting of the Board of Building Appeals of the City of Modesto held on the 22nd day of May 2014, by Board Member Ragsdale, who moved its adoption, which motion being duly seconded by Board Member Dalton, was upon roll call carried in the resolution adopted by the following vote:

Ayes:	Dalton, Ragsdale, Reid, and Rodriguez
Noes:	None
Absent:	Yoshino

BY ORDER OF THE BOARD OF BUILDING APPEALS OF THE CITY OF MODESTO.



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TIM RAGSDALE  
BOARD OF BUILDING APPEALS

